

ASSEMBLY BILL

No. 792

Introduced by Assembly Member Bonilla

February 17, 2011

An act to add Sections 2024.7 and 8613.7 to the Family Code, to add Sections 1366.50 and 1366.51 to the Health and Safety Code, to add Sections 10786 and 10787 to the Insurance Code, to amend Section 2800.2 of the Labor Code, and to add Sections 1342.5 and 2706.5 to the Unemployment Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 792, as introduced, Bonilla. Health care coverage: California Health Benefit Exchange.

Existing law, the federal Patient Protection and Affordable Care Act, requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and employers. Existing state law establishes the California Health Benefit Exchange within state government, specifies the powers and duties of the board governing the Exchange relative to determining eligibility for enrollment in the Exchange and arranging for coverage under qualified health plans, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law imposes specified requirements on health care service plans and health insurers that provide

medical and hospital coverage under an employer-sponsored group plan for an employer subject to COBRA or Cal-COBRA, as defined. Existing law regulates the distribution of unemployment compensation or disability benefits by the Employment Development Department. Existing law, under the Family Code, sets forth procedures related to a petition for dissolution of marriage, nullity of marriage, or legal separation, or a petition for adoption.

This bill would require the disclosure of information on health care coverage through the California Health Benefit Exchange, under specified circumstances, by health care service plans, health insurers, the Employment Development Department, upon an initial claim for disability benefits, or by the court, upon the filing of a petition for dissolution of marriage, nullity of marriage, legal separation, or adoption. On and after January 1, 2014, the bill would also require specified health care service plans and health insurers to, upon a renewal in coverage of an enrollee or insured, as specified, or with regard to COBRA or Cal-COBRA coverage under an employer-sponsored group plan, and the Employment Development Department with regard to an applicant for unemployment compensation, provide specified information to the California Health Benefit Exchange for purposes of enrolling those enrollees, insureds, or applicants in the Exchange. The bill would allow an individual to opt out of that coverage in writing to the Exchange.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2024.7 is added to the Family Code, to
2 read:

1 2024.7. Upon the filing of a petition for dissolution of marriage,
2 nullity of marriage, or legal separation, the court shall provide to
3 the petitioner and the respondent the following notice:
4

5 “If you do not have affordable health care coverage, effective
6 January 1, 2014, you may obtain health care coverage through the
7 California Health Benefit Exchange. What you pay for coverage
8 through the Exchange will depend on how much you make. If your
9 income is low, you may qualify for no-cost coverage through
10 Medi-Cal. For more information, check www.healthcare.ca.gov
11 or call 1-888-Healthhelp (insert telephone number).”
12

13 SEC. 2. Section 8613.7 is added to the Family Code, to read:
14 8613.7. Upon the filing of a petition for adoption pursuant to
15 this part, the court shall provide to the petitioner the following
16 notice:
17

18 “If you do not have affordable health care coverage, effective
19 January 1, 2014, you may obtain health care coverage through the
20 California Health Benefit Exchange. What you pay for coverage
21 through the Exchange will depend on how much you make. If your
22 income is low, you may qualify for no-cost coverage through
23 Medi-Cal. For more information, check www.healthcare.ca.gov
24 or call 1-888-Healthhelp (insert telephone number).”
25

26 SEC. 3. Section 1366.50 is added to the Health and Safety
27 Code, to read:

28 1366.50. (a) Except for a specialized health care service plan,
29 every health care service plan contract that is issued, amended,
30 delivered, or renewed in this state on or after January 1, 2014, that
31 provides medical and hospital coverage under an
32 employer-sponsored group plan for an employer subject to
33 COBRA, as defined in subdivision (e) of Section 1373.621, or an
34 employer group for which the plan is required to offer Cal-COBRA
35 coverage, as defined in subdivision (f) of Section 1373.621,
36 including a carrier providing replacement coverage under Section
37 1399.63, shall further offer the former employee or former
38 dependent of an employee the opportunity to continue benefits as
39 required under subdivision (b), and shall further offer the former

1 employee or former dependent of an employee the opportunity to
2 continue benefits as required under subdivision (b).

3 (b) (1) The health care service plan shall provide to the
4 California Health Benefit Exchange information regarding the
5 former employee and any dependents covered under the group
6 coverage. The information provided shall include the name or
7 names, most recent address, and any other information that is in
8 the possession of the plan and that the Exchange may require in a
9 manner to be prescribed by the Exchange.

10 (2) The information shall constitute an application for enrollment
11 in coverage within the meaning of Section 100503 of the
12 Government Code.

13 (c) (1) On and after January 1, 2014, notification provided to
14 employees, members, former employees, dependents, or former
15 dependents under subdivisions (a) and (b) shall also include the
16 following notification in 12-point type:

17
18 “Because you are no longer enrolled in coverage provided by
19 your employer or the employer of a family member, an application
20 for health care coverage through the California Health Benefit
21 Exchange has been made for you. You are not required to accept
22 coverage from the Exchange. Your payment for this coverage will
23 be based on your income last year. If you make significantly less
24 or more this year than you made last year, please tell the California
25 Health Benefit Exchange and your charges will be based on your
26 current income. If your income is low, you may qualify for no-cost
27 coverage through Medi-Cal. For more information, check
28 www.healthcare.ca.gov or call 1-888-Healthhelp (insert telephone
29 number).”
30

31 (2) To decline health care coverage pursuant to this section, the
32 individual shall elect to do so by notifying the Exchange in writing
33 within 63 calendar days of the date of termination of group
34 coverage.

35 SEC. 4. Section 1366.51 is added to the Health and Safety
36 Code, to read:

37 1366.51. (a) Except for a specialized health care service plan,
38 every health care service plan contract that is issued, amended,
39 delivered, or renewed in this state on or after January 1, 2014, that
40 provides medical and hospital coverage to an individual shall

1 further offer notice 60 days in advance of renewal of the
2 opportunity to continue benefits as required under subdivision (b),
3 and shall further offer the individual or former dependent of an
4 individual the opportunity to continue benefits as required under
5 subdivision (b).

6 (b) (1) The health care service plan shall provide to the
7 California Health Benefit Exchange information regarding the
8 former covered individual and any dependents that chose not to
9 renew individual coverage. The information provided shall include
10 the name or names, most recent address, and any other information
11 that is in the possession of the plan and that the Exchange may
12 require in a manner to be prescribed by the Exchange.

13 (2) The information shall constitute an application for enrollment
14 in coverage within the meaning of Section 100503 of the
15 Government Code.

16 (c) (1) On and after January 1, 2014, notification provided to
17 employees, members, former employees, dependents, or former
18 dependents under subdivisions (a) and (b) shall also include the
19 following notification in 12-point type:

20
21 “Because you are no longer enrolled in coverage purchased by
22 you as an individual or as the dependent of a family member, an
23 application for health care coverage through the California Health
24 Benefit Exchange has been made for you. You are not required to
25 accept coverage from the Exchange. Your payment for coverage
26 will be based on your income last year. If you make significantly
27 less or more this year than you made last year, please tell the
28 California Health Benefit Exchange and your charges will be based
29 on your current income. If your income is low, you may qualify
30 for no-cost coverage through Medi-Cal. For more information,
31 check www.healthcare.ca.gov or call 1-888-Healthhelp (insert
32 telephone number).”

33
34 (2) To decline health care coverage pursuant to this section, the
35 individual shall elect to do so by notifying the Exchange in writing
36 within 63 calendar days of the date of termination of individual
37 coverage.

38 SEC. 5. Section 10786 is added to the Insurance Code, to read:

39 10786. (a) Every health insurance policy that is issued,
40 amended, delivered, or renewed in this state on or after January

1 1, 2014, that provides medical and hospital coverage under an
2 employer-sponsored group plan for an employer subject to
3 COBRA, as defined in subdivision (e) of Section 10116.5, or an
4 employer group for which the plan is required to offer Cal-COBRA
5 coverage, as defined in subdivision (f) of Section 10116.5,
6 including a carrier providing replacement coverage under Section
7 10128.3, shall further offer the former employee or former
8 dependent of an employee the opportunity to continue benefits as
9 required under subdivision (b), and shall further offer the former
10 employee or former dependent of an employee the opportunity to
11 continue benefits as required under subdivision (b).

12 (b) (1) The health insurer shall provide to the California Health
13 Benefit Exchange information regarding the former employee and
14 any dependents covered under the group coverage. The information
15 provided shall include the name or names, most recent address,
16 and any other information that is in the possession of the insurer
17 and that the Exchange may require in a manner to be prescribed
18 by the Exchange.

19 (2) The information shall constitute an application for enrollment
20 in coverage within the meaning of Section 100503 of the
21 Government Code.

22 (c) (1) On and after January 1, 2014, notification provided to
23 employees, members, former employees, dependents, or former
24 dependents under subdivisions (a) and (b) shall also include the
25 following notification in 12-point type:

26
27 “Because you are no longer enrolled in coverage provided by
28 your employer or the employer of a family member, an application
29 for health care coverage through the California Health Benefit
30 Exchange has been made for you. You are not required to accept
31 coverage from the Exchange. Your payment for this coverage will
32 be based on your income last year. If you make significantly less
33 or more this year than you made last year, please tell the California
34 Health Benefit Exchange and your charges will be based on your
35 current income. If your income is low, you may qualify for no-cost
36 coverage through Medi-Cal. For more information, check
37 www.healthcare.ca.gov or call 1-888-Healthhelp (insert telephone
38 number).”
39

1 (2) To decline health care coverage pursuant to this section, the
2 individual shall elect to do so by notifying the Exchange in writing
3 within 63 calendar days of the date of termination of group
4 coverage.

5 SEC. 6. Section 10787 is added to the Insurance Code, to read:

6 10787. (a) Every health insurance policy that is issued,
7 amended, delivered, or renewed in this state on or after January
8 1, 2014, that provides medical and hospital coverage to an
9 individual shall further offer notice 60 days in advance of renewal
10 of the opportunity to continue benefits as required under
11 subdivision (b), and shall further offer the individual or former
12 dependent of an individual the opportunity to continue benefits as
13 required under subdivision (b).

14 (b) (1) The health insurer shall provide to the California Health
15 Benefit Exchange information regarding the former covered
16 individual and any dependents that chose not to renew individual
17 coverage. The information provided shall include the name or
18 names, most recent address, and any other information that is in
19 the possession of the insurer and that the Exchange may require
20 in a manner to be prescribed by the Exchange.

21 (2) The information shall constitute an application for enrollment
22 in coverage within the meaning of Section 100503 of the
23 Government Code.

24 (c) (1) On and after January 1, 2014, notification provided to
25 employees, members, former employees, dependents, or former
26 dependents under subdivisions (a) and (b) shall also include the
27 following notification in 12-point type:

28
29 “Because you are no longer enrolled in coverage purchased by
30 you as an individual or as the dependent of a family member, an
31 application for health care coverage through the California Health
32 Benefit Exchange has been made for you. You are not required to
33 accept coverage from the Exchange. Your payment for coverage
34 will be based on your income last year. If you make significantly
35 less or more this year than you made last year, please tell the
36 California Health Benefit Exchange and your charges will be based
37 on your current income. If your income is low, you may qualify
38 for no-cost coverage through Medi-Cal. For more information,
39 check www.healthcare.ca.gov or call 1-888-Healthhelp (insert
40 telephone number).”

1
2 (2) To decline health care coverage pursuant to this section, the
3 individual shall elect to do so by notifying the Exchange in writing
4 within 63 calendar days of the date of termination of individual
5 coverage.

6 SEC. 7. Section 2800.2 of the Labor Code is amended to read:

7 2800.2. (a) Any employer, employee association, or other
8 entity otherwise providing hospital, surgical, or major medical
9 benefits to its employees or members is solely responsible for
10 notification of its employees or members of the conversion
11 coverage made available pursuant to Part 6.1 (commencing with
12 Section 12670) of Division 2 of the Insurance Code or Section
13 1373.6 of the Health and Safety Code.

14 (b) Any employer, employee association, or other entity, whether
15 private or public, that provides hospital, medical, or surgical
16 expense coverage that a former employee may continue under
17 Section 4980B of Title 26 of the United States Code, Section 1161
18 et seq. of Title 29 of the United States Code, or Section 300bb of
19 Title 42 of the United States Code, as added by the Consolidated
20 Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272),
21 and as may be later amended (hereafter “COBRA”), shall, in
22 conjunction with the notification required by COBRA that COBRA
23 continuation coverage will cease and conversion coverage is
24 available, and as a part of the notification required by subdivision
25 (a), also notify the former employee, spouse, or former spouse of
26 the availability of the continuation coverage under Section
27 1373.621 of the Health and Safety Code, and Sections 10116.5
28 and 11512.03 of the Insurance Code.

29 (c) (1) On or after July 1, 2006, *until January 1, 2012*,
30 notification provided to employees, members, former employees,
31 spouses, or former spouses under subdivisions (a) and (b) shall
32 also include the following notification:

33
34 “Please examine your options carefully before declining this
35 coverage. You should be aware that companies selling individual
36 health insurance typically require a review of your medical history
37 that could result in a higher premium or you could be denied
38 coverage entirely.”
39

1 (2) *On and after January 1, 2012, until December 31, 2013,*
2 *notification provided to employees, members, former employees,*
3 *spouses, or former spouses under subdivisions (a) and (b) shall*
4 *also include the following notification:*

5
6 *“Please examine your options carefully before declining this*
7 *coverage. Until January 1, 2014, you should be aware that*
8 *companies selling individual health insurance to adults who are*
9 *19 years of age or older typically require a review of your medical*
10 *history that could result in a higher premium or you could be*
11 *denied coverage entirely. Effective January 1, 2010, children under*
12 *19 years of age cannot be denied individual coverage based on*
13 *medical history but may pay a higher premium depending on*
14 *medical history.”*

15
16 (3) *On and after January 1, 2014, notification provided to*
17 *employees, members, former employees, spouses, or former spouses*
18 *under subdivisions (a) and (b) shall also include the following*
19 *notification:*

20
21 *“Because you are no longer enrolled in coverage purchased by*
22 *you as an individual or as the dependent of a family member, an*
23 *application for health care coverage through the California Health*
24 *Benefit Exchange has been made for you. You are not required to*
25 *accept coverage from the Exchange. You will be charged for*
26 *Exchange coverage based on your income last year. If you make*
27 *significantly less or more this year than you made last year, please*
28 *tell the California Health Benefit Exchange and your charges will*
29 *be based on your current income. If your income is low, you may*
30 *qualify for no-cost coverage through Medi-Cal. For more*
31 *information, check www.healthcare.ca.gov or call*
32 *1-888-Healthhelp (insert telephone number).”*

33
34 (d) *To decline health care coverage pursuant to this section,*
35 *the individual shall elect to do so by notifying the Exchange in*
36 *writing within 63 calendar days of the date of termination of*
37 *individual coverage.*

38 SEC. 8. Section 1342.5 is added to the Unemployment
39 Insurance Code, to read:

1 1342.5. (a) On and after January 1, 2014, when an individual
2 files a new claim for unemployment compensation under this
3 chapter, the department shall do all of the following:

4 (1) (A) Provide to the California Health Benefit Exchange the
5 name, address, and any other identifying information that is in the
6 possession of the department as the Exchange may require in a
7 manner to be prescribed by the Exchange.

8 (B) The information shall constitute an application for
9 enrollment in coverage within the meaning of Section 100503 of
10 the Government Code.

11 (b) Provide the following notice to the individual:

12
13 “Because you have applied for unemployment compensation,
14 an application for health care coverage through the California
15 Health Benefit Exchange has been made for you. You are not
16 required to accept coverage from the Exchange. You will be
17 charged for Exchange coverage based on your income last year.
18 If you make significantly less or more this year than you made last
19 year, please tell the California Health Benefit Exchange and your
20 charges will be based on your current income. If your income is
21 low, you may qualify for no-cost coverage through Medi-Cal. For
22 more information, check www.healthcare.ca.gov or call
23 1-888-Healthhelp (insert telephone number).”
24

25 (c) To decline health care coverage pursuant to this section, the
26 individual shall elect to do so by notifying the Exchange in writing.

27 SEC. 9. Section 2706.5 is added to the Unemployment
28 Insurance Code, to read:

29 2706.5. (a) When an individual files a new claim for disability
30 benefits under this part, the department shall provide the following
31 notice to the individual:

32
33 “If you do not have affordable health care coverage, effective
34 January 1, 2014, you may obtain health care coverage through the
35 California Health Benefit Exchange. What you pay for coverage
36 through the Exchange will depend on how much you make. If your
37 income is low, you may qualify for no-cost coverage through
38 Medi-Cal. For more information, check www.healthcare.ca.gov
39 or call 1-888-Healthhelp (insert telephone number).”
40

1 (b) This notice shall be provided upon initial application whether
2 or not the individual is eligible for disability benefits.

3 SEC. 10. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.